

REMARKS

The Applicants have amended the claims to provide added clarity, but submit that both the claims as finally rejected and the amended claims are patentably distinguishable from the reference set forth in the final rejection.

That rejection, of claims 1-19, was based on Midgley et al., U.S. Patent No. 6,460,055 under 35 U.S.C. §102(e). The amended claims are more clearly distinguishable from Midgley in setting forth additional limitations that clearly set forth a structure in which a backup server is connected to the second server off the network that connects the first and second servers with the plurality of computers. Midgley shows all servers 18-22 on the network with backup server 12.

In addition, the amended claims more clearly set forth that the first and second storage devices are part of the storage apparatus controlled by the storage controller, which storage system is connected to both the first and second servers. Each storage system disclosed by Midgley is dedicated to a particular server.

In addition, the identifier sent by the first server to the second server according to the claims permits the second server to access the duplicate data of the file stored with the logical path to the first server, a feature that is neither disclosed nor suggested by Midgley. Additionally of note is that Midgley's data and instructions flow on the same network, whereas in the presently claimed invention, instructions are passed along one network whereas the data is backed up off the network.

Thus, although the Examiner states that Midgley teaches systems and methods for backing up data files in order to replicate data from a first server to a second (backup) server according to a process that allows a user to backup a source

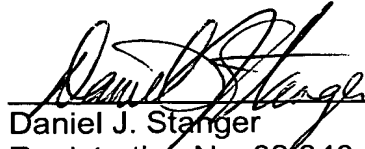
file data by making changes between the source file and the target file, the summary asserted by the Examiner is not of corresponding scope to the claims as finally rejected, or as newly amended. Indeed, the detailed rejection seems to assert server 20 and server 22 of Midgley as corresponding to the claimed second server and first server, respectively, although in fact, these servers of Midgley are equivalent in function with regard to the backing up of data. Neither server 20 or 22 assists in the backup of duplicate data having a logical path set to the other. Rather, Midgley's backup of both data storages 34 and 32, via servers 20 and 22, is performed by backup server 12, which is distinguished above from the claims of the present application.

In view of the foregoing amendments and remarks, the Applicants request reconsideration of the rejection and allowance of the claims.

To the extent necessary, the Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Mattingly, Stanger & Malur, P.C., Deposit Account No. 50-1417 (referencing attorney docket no. 566.43176X00).

Respectfully submitted,

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.



Daniel J. Stanger
Registration No. 32,846

DJS/sdb
(703) 684-1120